CHAPTER 10

International Human Rights Implementation: Strengthen Existing Mechanisms, Establish a World Court for Human Rights, or Both?

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Introduction

Traditionally, international human rights law occupies a solid place in the programs on international public law at Utrecht University and there are strong ties between the two sections. These ties have been strengthened by the sincere interest Fred Soons showed in the achievements of SIM, the Netherlands Institute of Human Rights, which resulted in a very pleasant and inspiring cooperation. In the spirit of this cooperation this contribution to the Volume in honour of Fred Soons will consider the possible wrongs and gaps in international human rights monitoring mechanisms with special attention to the remedies. I will focus on the general remedies and the monitoring mechanisms, based on the United Nations (UN) Charter and the human rights treaties. Although the various international criminal tribunals are also most relevant from the perspective of implementation of human rights, they are not included here.

Since World War II, the establishment of the UN and the adoption of the Universal Declaration of Human Rights (UDHR), many institutions have been established at the international level, and also a large number of specific human rights treaties have been adopted at both the international and the regional level (Africa, the Americas and Europe in particular), each with their own implementation machinery. Similar developments took place at some, but not all, regional levels.

Thus, independent jurisdiction exists at some regional levels (but not all), whereas quasi-judicial functions are performed by some (but not all) of the UN treaty bodies. Both forms of remedy are open only for complaints against States.

The general picture shows a very complex agglomerate of courts, commissions and councils playing a role in the implementation of this expansive body of norms, which, however, does neither guarantee the same level of protection to all, nor the same level of accountability of violators.

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This contribution focuses on the situation at the international level. Whereas more and more codification gaps in international human rights law are solved, we see that the gaps in the implementation and application thereof persist. Recently, different kinds of proposals have been developed to fill these gaps. On the one hand, the existing system of treaty bodies is submitted to reform and on the other hand a proposal to establish a World Court of Human Rights (the World Court or WCHR) has been developed by Julia Kozma, Manfred Nowak and Martin Scheinin.[1] The two developments reflect rather different approaches: whereas the treaty body reform is a more general attempt to improve, harmonize and coordinate the working methods of the existing treaty bodies in all fields, including the "communications" procedure, the World Court project aims at the establishment of an entirely new institution. But there certainly are links between these processes: even when it is not stated explicitly by all authors, it can be derived from the proposals for a World Court that the establishment thereof will, in the long term, replace the quasi-judicial communications role of the treaty bodies. I will first reflect on the criticism on the existing system of treaty bodies, thereafter on the proposals for both treaty body reform and the World Court and will end with some personal comments.

The Treaty Body Patchwork

Apart from the various organs of the UN as such which are also involved in the field of human rights, such as the General Assembly, the Human Rights Council and the International Court of Justice (ICJ) and the international tribunals, nine specific treaty bodies exist, each with their own standards and mechanisms, based on the specific UN human rights treaties. The system of treaty bodies, each monitoring one specific human rights treaty is severely criticized a.o. because of the non-compliance of states, the overlapping procedures, backlogs, and sometimes the lack of coherence in the activities of the supervisory bodies.

The independent treaty bodies consist of (different numbers) of independent experts from the state parties, and meet at different intervals. The state reporting procedure being the only one foreseen in all treaties, the possibility for other procedures (individual complaints, inter-state complaints, inquiry, site visits) differs between the bodies and sometimes also between state parties

1 J. Kozma et al., *A World Court of Human Rights – Consolidated Draft Statute and Commentary* (Neuer Wissenschaftlicher Verlag, Vienna/Graz: 2010).

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where specific mechanisms such as the individual complaints procedure mostly are optional.[2]

Not surprisingly, this diffuse structure has given rise to much criticism, from the state parties, from the UN itself, from non-governmental organizations (NGOs), from national human rights institutes and from academics. In 2012 the High Commissioner of Human Rights published the Report on the Strengthening of Treaty Bodies, which became the leading document in the process of reform that was already in progress (referred to as the "Dublin process").[3] The Report summarizes the problems under the present systems. States complain about the multiple reporting obligations under the different treaties (if a state ratifies all core treaties with reporting procedures it is bound to produce two reports annually!), demanding sometimes overlapping information at different moments, which also imposes problems to the non-governmental and other organizations that write (shadow) reports. This may be one of the causes of the low compliance rate, as only 16% of the state parties reports due in 2010 and 2011 were in time.[4] Also, four out of nine treaty bodies "are facing significant and increasing backlogs of reports awaiting consideration,"[5] which of course does not encourage timely reporting by state parties.

A related negative implication is that non-compliance is rewarding because the complying states are reviewed more frequently.

On the side of the treaty bodies the national reports demand a substantive capacity over a longer period to maintain the institutional memory and a machinery to ensure consistency among the treaty bodies themselves. These capacity problems are enlarged by the limited resources and time constraints of the bodies, also because the independent experts do not receive any salary (only their costs are covered). A related but less often emphasized aspect related to the experts is the concern about the independence of the members of the treaty bodies.[6] The election process depends on the national procedures – and thus the guarantees for independence too[7] – and the fact that no payment is received can complicate this process. In 2012 the Chairs of the treaty bodies

2 See for a brief overview of the history of these bodies: M. Nowak, "Comments on the UN High Commissioner's Proposals Aimed at Strengthening the UN Human Rights Treaty Body System" (2013) 31(1) *Netherlands Quarterly of Human Rights* 3–8.

3 A/66/860 of 26 June 2012.

4 Idid., 21.

5 Ibid., 9.

6 Ibid., 74–80, para. 4.4.

7 See also: A. Koneva, "Strengthening the Human Rights Treaty Body System, Master Thesis European Master's Degree in Human Rights and Democratisation" (2013) *Unpublished* 29–30.

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adopted guidelines for the independence and impartiality of the members in Addis Ababa.[8]

Of course many problems would be solved if the existing bodies merged into one "unified standing treaty body" as has been proposed but this idea did not get much support and was not adopted, yet, as the 2012 Report explains, it "stimulated sustained movement among treaty body membership in the harmonization of working methods and procedures of the treaty bodies, mainly through Inter-Committee Meetings (ICMs) and Chairpersons Meetings (CMs)."[9]

In this treaty body reform process emphasis is put on the reporting procedures, and less or no attention is paid to the complaints and other procedures, whereas it can be held, that, as Manfred Nowak says, in many parts of the world

> the individual complaints procedure plays a much more prominent role in holding states accountable to their treaty obligations than the state reporting procedure, at least in relation to civil and political rights.[10]

2014 Proposals for a Reform of the Treaty Body System

After long debates a new stage in the reform process was reached in February 2014 by the launch of the final draft resolution of the UN General Assembly on Strengthening and Enhancing Effective Functioning of the Human Rights Treaty Body System.[11]

The proposals included in this draft are not revolutionary and do not entail fundamental changes, but their importance lies in the reaffirmation of the role of the treaty bodies, their independence and impartiality. Thus, the draft reflects many ideas developed since 2012. This has resulted in recommendations for effective procedures, the provision for additional meeting time for the bodies, the additional resources for capacity building and assistance for states, and more procedural safeguards for the nomination of independent experts.

Effective procedures have to be achieved through continuation of the efforts of the treaty bodies towards achieving greater efficiency, transparency, effectiveness and harmonization through their working methods.[12] Simplified

8 A/67/222, Annex 1 of June 2012.

9 A/66/860, note 4 at 28.

10 M. Nowak, footnote 3, p. 7.

11 A/68/L.37 of 10 February 2014.

12 Ibid. at para. 9.

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reporting procedures with limited questions are encouraged. Common guidelines for short, focused and concrete concluding observations serve the same goal. This has to result in shorter (including word limits) and more manageable reports for both treaty bodies and states.

The state parties are advised to use the simplified reporting procedure and to prepare common core documents which can be updated. Collaboration between the treaty bodies and an aligned methodology will also facilitate the process for the states.

Webcasting of the public meetings is foreseen as an instrument to enhance the accessibility and visibility of the treaty bodies, and live webcasts and video archives will have to be available, accessible, searchable and secure. Further implementation of the Addis Ababa guidelines on the independence and impartiality of the treaty body members is encouraged, including the consultation of states and other stakeholders.

Biannual reports on the status of the treaty body system and the progress of the efficiency will have to be presented to allow a complete reconsideration of the treaty body system after six years.

The draft resolution is welcomed in a Joint Statement of the NGOs,[13] who support the improvements, the additional resources, the additional meeting time and other aspects. However, they also warn against too much interference of the General Assembly with the work of the treaty bodies. Moreover, they regret that immediate funding for webcasts is not provided and that the resolution does not address the need for renewed efforts towards universal ratification of the core international human rights treaties. Another point of concern of the NGOs is that the issue of reprisals and intimidation against those engaging with the treaty bodies is not addressed effectively, but only strongly condemned.

Summing up, we can say that a rather intensive debate on the human rights treaty bodies resulted in rather modest reforms which focus on the gaps in the implementation of the reporting procedures. Whereas some reforms, related to time allocation and the independence of the experts may also have positive effects on the individual complaints procedures, these are not fundamentally reconsidered. The criticism on this procedure is one of the arguments used in the proposals to establish a WCHR.

13 See: Joint NGO Statement on the Draft Resolution of the UN General Assembly on "Strengthening and Enhancing the Effective Functioning of the Human Rights Treaty Body System" available at <www.amnesty.org>.

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Why a World Court on Human Rights?

As Manfred Nowak, one of the leading experts in the debate on the WCHR, explains more fundamental changes are deemed necessary to encourage citizens to use the individual complaints procedures.[14] He explains the prominent role of this procedure in several regional human rights systems (in particular Europe and Latin America) and the potential of *ex officio* inquiry procedures, and compares this to the relatively modest use made of these procedures with the treaty bodies. One of the causes suggested by Nowak is that the

> quasi-judicial expert bodies consisting of members with a variety of professional backgrounds that deal with individual "communications" in a purely written procedure to non-binding "final views" simply do not live up to these minimum requirements of an effective remedy […].[15]

Therefore, the treaty bodies should concentrate exclusively on the state reports and other monitoring activities while the more judicial procedures should be entrusted to a professional Court.

This is only one of the reasons for establishing this WCHR, an idea that dates back to an Australian proposal in 1947 at the Paris Peace Conference of 1947, which was at that time rejected. The rejection was based on "states' concerns surrounding sovereignty, scope of jurisdiction and the potential effects the Court may have on ratification of future human rights instruments."[16] Many authors[17] emphasize that it was the period of the Cold War and the divide between the West and the East which complicated the entire human rights project. Since then many achievements have been made in the strengthening of the protection of human rights, in particular after the end of the Cold War, such as the establishment of the Office of the High Commissioner of Human Rights, the international criminal tribunals which assumed more and more responsibility for human rights violations and the establishment and improvement of several regional procedures.[18]

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14 Nowak, note 3 at 7–8.

15 Ibid., 8.

16 J. Kirkpatrick, "A Modest Proposal: A Global Court of Human Rights" (2014) 13(2) *Journal of Human Rights* 230–248. DOI: 10.1080/14754835.2013.824288, p. 232.

17 See a.o. Manfred Nowak, "It's Time for a World Court of Human Rights" in: Cherif Bassiouni and W.A. Schabas (eds), *New Challenges for the UN Machinery: What Future for the UN Treaty Body System and the Human Rights Council Procedures?* (Intersentia, Cambridge: 2011) 17–33, p. 19.

18 M. Nowak, "It's Time for a World Court of Human Rights" in M. Cherif Bassiouni and W.A. Schabas (eds), *New Challenges for the UN Human Rights Machinery: What Future for the*

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However, there are still crucial gaps in human rights protection, which imply that not every citizen has an effective remedy to hold states and other duty-bearers accountable for human rights violations. First of all the regional Courts do not cover all regions; in particular the Asian region has no mechanism for the protection of individual human rights. Moreover, even where effective regional institutions exist, their jurisdiction covers not necessarily the same rights and certainly not all rights. Also, the existing remedies can only be used against states and not against other powerful actors whose acts can equally violate human rights, such as international organizations and multinational companies. At the international level, individual complaints procedures at the treaty bodies do not result in legally binding decisions and thus cannot be seen as full remedies.

It has to be emphasized that the importance of individual remedies lies not only in the need to guarantee justice to individuals, but that individual cases also have a potential to bring human rights violations to the attention of other institutions and to shape the content of human rights obligations. The impact of individual cases goes far beyond the actors in the specific case. Strategic litigation can have an impact on the development of laws and policies.[19]

So much for the substantive arguments for the establishment of a WCHR. These arguments were elaborated again on the presentation of the outcomes of the Swiss initiative of 2008 to commemorate the 60th anniversary of the UDHR, which established a panel of Eminent Persons to draft an Agenda for Human Rights. The World Court is one of the proposals on this Agenda. Subsequently, Julia Kozma and Manfred Nowak from the Vienna-based Ludwig Boltzmann Institute of Human Rights together with Martin Scheinin from Ako University in Turkey and the European University Institute in Florence, were invited to transform their ideas into a concrete Draft Statute. The drafts were presented and discussed in several academic meetings, including a research meeting within the Association of Human Rights Institutes, and an expert conference organized by the International Commission of Jurists in Geneva.[20]

In this draft the framers want to add some more practical arguments to the more substantive ones mentioned, holding that the UN might learn

UN Treaty Body System and the Human Rights Council Procedures? (Intersentia, Cambridge: 2011) 17–33.

19 See: The Equal Rights Trust "Litigation Strategies of Using Equality and Non-Discrimination Claims to Advance Economic and Social Rights" (2014) 12 *Equal Rights Review* available at <www.equalrightstrust.org> 51–58.

20 Nowak, note 17.

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from other mechanisms in the establishment of the World Court, and that the creation of a World Court may not be as complicated as assumed.[21]

Draft Statute for a World Court of Human Rights[22]

The Draft Statute establishes a full-time, permanent Court of 21 members seated in Geneva (Articles 2 and 20, paragraph 1). The composition and organization of the Court seem to be inspired by the European Court of Human Rights (ECtHR), with nominations by state parties, including one female and one male candidate (Article 22), and a term of office of nine years (Article 24). The construction of a Plenary Court and Chambers is analogous to that of the European Court (Article 20, paragraph 2). The structure of the Registry with a Victims and Witnesses Unit reminds of the International Criminal Court (ICC) (Article 30). An Assembly of State Parties is established (Article 43) to select the judges and to decide on substantive issues such as the establishment of the Trust Fund to assist victims and their families and to assist state parties to improve their domestic remedies (Article 39).

The jurisdiction of the Court covers the major human rights conventions, which are enumerated in Article 5, paragraph 1. However, paragraph 2 of this article foresees a procedure to add treaties on request of a state party.

One of the questions in the discussion on the Court was, what the status of the Court would be: Trechsel distinguishes a Pyramid Model (the World Court as ultimate court of appeals, ensuring a uniform interpretation of human rights law), an ICC model (a court in its own right) and a sibling-model (the court being a sibling to the ICJ).[23] The choice made in the draft seems to me a merge of the first two options. The WCHR is established by a separate treaty like the ICC, thus creating a new entity that does not require burdensome treaty amendment procedures. State parties can ratify the Statute and may also declare that they do not recognize the jurisdiction of the Court in relation to certain human rights treaties or provisions thereof (Article 50, paragraph 1): thus the states are free to opt in or opt out of any treaty, which creates a kind of human rights cafeteria.[24] Not only states can ratify; under Article 51 also entities can issue a

21 Ibid.

22 J. Kozma et al., note 2.

23 S. Trechsel "A World Court for Human Rights?" (2004) 1 *Northwestern Journal of International Human Rights* avaibale at <scholarlycommons.law.northwestern.edu>.

24 Or "buffet-style jurisdiction" in terms of J. Kirkpatrick, note 17 at 241.

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declaration that they recognize the competence of the Court to examine complaints related to a violation of any human right provided for in the treaty. Article 4 defines as entities: "any inter-governmental organization or non-state actor, including any business corporation, which has recognized the jurisdiction of the Court in accordance with Article 51."

Complaints can be lodged by individual victims, whether individuals or NGOs or groups of individuals. *Amicus curiae* submissions and third-party interventions are foreseen in Article 12.

The relation to the jurisdiction of other human rights institutions is regulated in different ways. Article 7 on the Individual Complaints provides in paragraph 3 that

> the ratification of or accession to this Statute by a State shall be treated by the Secretary-General of the United Nations as a notification by the State of the suspension of the operation of complaint procedures accepted by the State in question under the human rights treaties covered by the Court's jurisdiction.

Thus, the jurisdiction of the World Court will prevail over that of the relevant treaty bodies.

Article 10 (other admissibility criteria) excludes complaints that are of

> substantially the same matter that has already been examined in substance by the Court or by another procedure or international investigation or settlement, including before a regional court of human rights.

The World Court is not an appellate court over regional courts, and thus there is not a full pyramid: applicants have a choice which forum they address at the international or regional level (of course they first have to exhaust national remedies).

The investigative powers of the Court include the option for a fact finding mission (Article 14, paragraph 2), which the state parties have to accept and facilitate. This implies far-reaching powers including full freedom of movement throughout the territory of the state party, unrestricted access to state authorities, documents and case files, as well as the right to access to all places of detention and the right to hold confidential interviews with detainees, victims, experts and witnesses (Article 40, paragraph 2).

The judgments of the Court shall be binding and the enforcement is entrusted to the state parties, and will be supervised by the High Commissioner for Human Rights, who may in cases of non-compliance, through the Secretary-General of

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the UN, request the Security Council to take action (Article 18). Also, the orders for interim measures which the Court may take in exceptional cases so as to avoid irreparable damage (Article 19, paragraph 1), are binding with immediate effect (Article 19, paragraph 4).

Criticism on the Proposals for a World Court of Human Rights

The idea and proposal for the WCHR leaves us with the question how to appreciate the establishment of a prestigious new institution in times of (human rights and financial) crisis? These questions have already been forwarded by well-known scholars such as Stephan Trechsel and Philip Alston. The points of criticism are both pragmatic and fundamental.

Trechsel states that "[I]f one imagines an ideal world, certainly the WCHR is desirable [...] [I]f one looks at the real world today, one will have serious doubts."[25] However, his doubts elaborated in the article mentioned, written before the publication of the Draft Statute, are not only pragmatic, as he mentions as an essential issue the question of effectiveness of the Court. The effectiveness is ultimately decided by the compliance of the states and the European experience shows that the state parties who are most severely criticized such as Russia and Turkey do not achieve the fundamental changes that the judgments of the ECtHR demand. This brings him to the conclusion that "[R]ealistically speaking, the creation of a world court of human rights is, at present time, neither desirable, nor necessary, nor probable."[26]

It may also be remembered that the ECtHR is sometimes seen as a victim of its own success, considering the figures of more than 100 000 cases pending and 65 900 new applications last year, even though the Court manages to deal with an increasing percentage of cases.[27] How can the global court avoid the same problem?

However, these more pragmatic comments are overshadowed by the fundamental objections made by Philip Alston.[28] While agreeing that political feasibility is to be a major stumbling block, he has more fundamental and serious concerns on the scale of the proposals, the attribution of powers to the court

25 Trechsel, note 22 at para. 6.

26 Ibid., 70.

27 See: European Court of Human Rights "Analysis of Statistics 2013" (2014) available at <www.echr.coe.int/Documents/Stats_analysis_2013_ENG.pdf>.

28 P. Alston "Against a World Court for Human Rights" (2014, forthcoming) *Ethics and International Affairs* <papers.ssrn.com> 1–22.

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and, most importantly, on the vision reflected for the future of human rights. As his paper reflects the most substantive aspects, I will reflect his arguments here.

His concerns on the scale are based firstly on the range of standards the Court will have to apply, resulting in very difficult debates and raising very difficult challenges for judges to reconcile "complex, diverse, overlapping and perhaps inconsistent treaties."[29] The same diversity with consequences for the scope of the Court's work exits in relation to the domestic legal systems of the states. And the third concern related to the scope is that of costs: whereas the ECtHR is permanently under-sourced, and covers only one ninth of the world population, it costs around 90 million dollars, which easily shows the enormous amount of money required for a World Court.

Alston's concerns of power[30] are related to the very wide fact-finding powers attributed to the Court: these entail a "huge leap in terms of powers that states would see as infringing on their sovereignty." Also the requirement of the exhaustion of domestic remedies presupposes a full justiciability of international law at every national level. The option of binding interim measures will be very controversial in light of the existing experiences of a.o. the Inter-American Court. With regard to enforcement, the World Court lacks a political structure such as the Committee of Ministers at the level of the Council of Europe that monitors the implementation, and instead the Security Council can intervene, which "goes well beyond any existing form of enforcement."

On all these more practical issues Alston concludes: "In virtually every area in which states have been reluctant to accord authority to existing regional and international human rights bodies, the statute opts for a maximalist position and indeed leaves no controversial stone unturned in order to ensure the creation of a truly powerful international court."[31]

However, the most fundamental concerns of Alston are his concerns of vision[32] as in his view

> the very act of putting forward a WCHR as a major stand-alone initiative skews and distorts the debate, and pursuing such a vision distracts attention, resources and energy from more pressing endeavors.[33]

29 Ibid., 8.
30 Ibid., 11–13.
31 Ibid., 13.
32 Ibid., 13–19.
33 Ibid., 14.

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His first point here is that this court cannot be but "an elite court in every aspect" as it is assumed that the complex questions can be dealt with by judges and lawyers, without tremendous barriers in terms of accessibility by victims in all different aspects of costs, culture and language. Moreover he raises a – in my opinion – most fundamental, aspect of legitimacy, which lies within the assumption that a single World Court can resolve complex human rights problems, and that this World Court will still be accepted as part of a broader system of values and institutions. Some other concerns of vision on the hierarchy and workload and the Orwellian concept of "Entities" seem to me as less fundamental than the concern on universality. Whereas universality should not be confused with uniformity as universality leaves room for diversity (although of course, as emphasized by Alston, not in cases such as mass violations, violence against women and other vulnerable groups), the application of universal rights in a global jurisdiction goes beyond the assumptions that have been incorporated carefully in the existing systems. Alston mentions the margin of appreciation doctrine as an example. This concern is reaffirmed by the fact that the principle of complementarity is only mentioned in the Preamble but not in the Draft Statute itself.

These concerns lead Alston to the conclusion that:

> The central problem with the WCHR proposal is not its economic or political feasibility or its pie-in-the-sky idealism. It is that by giving such prominence to a court, the proposal vastly overstates the role that can and should be played by judicial mechanisms, downplays the immense groundwork that needs to be undertaken before such a mechanism could be helpful, sets up a straw man to be attacked by those who thrive on exaggerating the threat posed by giving greater prominence to human rights instruments at the international level, and distracts attention from far more pressing and important issues.[34]

Conclusion

I cannot but agree with most of Alston's arguments against a World Court of Human Rights.

The practical aspects may be solved by amendments of the Statute but the most crucial objections are, in my view, not so easy to repair.

These objections are inspired by the experience we have with the ECtHR. Whereas the European Court has given and is giving an enormous contribution

34 Ibid., 21.

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to the protection of human rights in Europe,[35] the current debate on the role of the Court shows the risks and pitfalls of an international legal mechanism. Apart from the practical aspects related to workload and costs and effective implementation, the debate touches upon fundamental questions related to the legitimacy of the Court (and more in general the judiciary) in democratic societies, the interpretation of complementarity and the essentials of universality. More attention has to be given to the role of the political institutions in the enforcement of the judgments, as a necessary condition for judicial independence.[36] This debate is crucial to maintain the important role of the ECtHR. Even within the relatively homogenous Europe this debate is not easy, and it seems in present times a mission impossible to expect that it will be so at the global level, where entire regions, like Asia, cannot even agree on acceptable regional human rights standards.

That leaves us with two questions. First of all, whether the whole debate on the World Court has to be considered as a waste of time. I think it is not. The idea of a World Court can have a positive influence on the most urgent debate on the gap in the implementation of human rights. A good example is the Geneva Declaration of the International Commission of Jurists on Access to Justice and Right to a Remedy in International Human Rights Systems.[37] In this declaration the fundamentals of access to justice are applied to all international and regional levels only after the reaffirmation of the primary responsibility of the States for effective remedies and implementation. The establishment of a World Court is only one of the options mentioned, parallel to the universal acceptance of individual communications procedures of the UN human rights treaty bodies, and full implementation of their decisions by the states. The paragraphs on the regions include the development of effective and regional mechanisms that meet the international human rights standards, also in the Asia-Pacific and the Middle East and North Africa Region. In this way the debate on the World Court may have a positive impact in the wider development of effective remedies and implementation of human rights.

The second question is what can be done to diminish the weaknesses of the individual complaints mechanisms of the treaty bodies. Now that a consensus on the treaty body reform seems to be near, it has to be recognized that this

35 See also: T. Hammarberg “Council of Europe as an Instrument for Human Rights” Presentation at Utrecht University 13 March 2014, to be published in the *Netherlands Quarterly of Human Rights*, June 2014.

36 See e.g. S. Flogaitis et al. (eds), *The European Court of Human Rights and its Discontents* (Edward Elgar Publishing, Cheltenham: 2013).

37 Available at <www.icj.org>.

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reform does not solve these weaknesses and more steps have to be taken here. Solutions can be found *e.g.* in specific litigation units within the treaty bodies or even in combination with different or all treaty bodies with members who have sufficient judicial qualifications, and a more specialized (common?) secretariat. Many of the provisions in the Draft Statute for the World Court can serve as inspiration for this development.

Thus, the Draft Resolution on Treaty Body Reform and the Draft Statute for a WCHR, in particular when considered in connection to each other, contribute to the closing of the gap in the implementation of international human rights law, even when the first is not very revolutionary and the second goes far beyond what would be a desirable revolution.

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